

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CLIFFORD FORESE)	
Plaintiff,)	DOCKET No. 21-10081
)	
v.)	
)	COMPLAINT AND JURY DEMAND
MATTHEW HALEY)	
Defendants.)	
)	

INTRODUCTION

1. This is an action for money damages for violations of the Plaintiff's constitutional rights brought pursuant to 42 U.S.C. § 1983 and related state law. Plaintiff Clifford Forese alleges that the Defendant Matthew Haley falsely arrested him and used excessive force against him in violation of the Fourth and Fourteenth Amendments to the United States Constitution and the Massachusetts Civil Rights Act, M.G.L. c. 12, § 11I. As a result of the Defendant's unlawful conduct, the Plaintiff sustained serious injuries, including two protruding disks and a pinched nerve in his upper spine.

JURISDICTION

2. Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343, and on the pendent jurisdiction of this court to entertain related claims arising under state law.

PARTIES

3. At all times relevant to this action, Plaintiff Clifford Forese was a resident of Pawtucket, Rhode Island.

4. Defendant Matthew Haley is a police officer for the Massachusetts Bay Transportation Authority (“MBTA”), acting under color of law at all times relevant to this Complaint, and is sued in his individual capacity as a police officer for the MBTA.

FACTS

5. On September 15, 2018, Mr. Forese was with his girlfriend, Penny Reyes, for a night out in Boston.
6. Just after midnight, they approached South Station hoping to take the commuter rail back home, but learned that they had missed the last train. So instead, they decided to call an Uber to pick them up.
7. As they arrived at the station entrance, they saw a stranger talking to a security guard. This man then asked the Plaintiff and Ms. Reyes if they had a charger so that he could plug in his phone and call himself an Uber home. Mr. Forese said that he did.
8. Mr. Forese, Ms. Reyes, and the stranger were allowed into South Station by this security guard who can be seen on video escorting them to the outlets behind the police desk, which was unoccupied at the time.
9. After a few minutes, Defendant Haley approached them.
10. Haley pointed the flashlight in their faces and asked them why they were touching “my desk.”
11. Mr. Forese put his hands in the air in response to the officer shining the flashlight in his eyes.

12. Mr. Forese then turned back towards the desk away from the officer, while Haley went around to the inside of the desk and spoke to the man charging his phone.
13. After some discussion, Haley told the man that he could not charge his phone and that he had to leave the station.
14. Mr. Forese then swore at the Defendant and asked him why he was being difficult, trying to explain that the man was stranded in Boston with no way to get home.
15. Haley then approached the Plaintiff and became physically confrontational.
16. The Defendant also claimed at this time that the station was closed, even though video demonstrates that numerous others were passing through and sitting in the waiting area while this conversation was happening.
17. Suddenly and without warning, Haley pushed Mr. Forese three or four times, causing him to lurch backwards approximately twenty feet.
18. Defendant Haley then tackled the Plaintiff and took him to the ground, causing Mr. Forese to land awkwardly on his neck and shoulder.
19. Once on the ground, Defendant Haley removed his OC cannister and threatened to spray the Plaintiff in the face.
20. He then wrenched Mr. Forese's arms behind his back into a stress position and handcuffed him.
21. He then pulled Mr. Forese up violently by his arms, causing additional pain to his neck and shoulder area.

22. Haley then placed the Plaintiff under arrest and dragged him out of the station.
23. Defendant Haley claimed that Mr. Forese used his hip and handcuffed hands to strike him while they were walking towards the exit, but video evidence showed this to be a lie.
24. Although South Station has a surveillance camera pointed at the area where most of the struggle took place, the Defendant failed to obtain the crucial few minutes of video which would have captured much of this encounter.
25. The MBTA later deleted the video recording despite a court order not to do so.
26. Forese was taken to the police station and charged with Assault and Battery on a Police Officer and Trespassing.
27. After a jury trial in which both parties and Ms. Reyes testified, the Plaintiff was found not guilty of all charges.
28. As a result of this incident, the Plaintiff suffered serious and painful injuries to his back, neck, and shoulder, including two protruding disks and a pinched nerve in his upper spine.
29. At the time of this encounter, Mr. Forese was working in the construction industry full time, earning approximately \$2500 per month. As a result of the injuries caused by the Defendant, he could not work for nearly eighteen months. While the Plaintiff has since returned to occasional work, he can only do light duty and it is more difficult to find construction jobs due to potential employers' concerns over his injuries.

COUNT I
VIOLATION OF 42 U.S.C. § 1983

30. The Plaintiff restates the allegations in paragraphs 1 through 29 and incorporates said paragraphs herein as paragraph 30.
31. By the actions described above in paragraphs 1 through 29, the Defendant, acting under color of law, deprived the Plaintiff of his right to be free from unlawful seizure and the use of excessive force, in violation of 42 U.S.C. § 1983 and his Fourth and Fourteenth Amendment rights as guaranteed by the United States Constitution.

COUNT II
VIOLATION OF MASSACHUSETTS CIVIL RIGHTS ACT
M.G.L. ch. 12, § 11I

32. The Plaintiff restates the allegations in paragraphs 1 through 29 and incorporates said paragraphs herein as paragraph 32.
33. By the actions described above in paragraphs 1 through 29, the Defendant violated the Plaintiff's civil rights through threats, intimidation, and coercion, in violation of M.G.L. ch. 12, § 11I.

WHEREFORE, the Plaintiff requests that this Court award:

1. Compensatory damages;
2. Punitive damages;
3. The costs of this action, including reasonable attorneys' fees; and,
4. Such other and further relief as this Court may deem necessary and appropriate.

DEMAND FOR JURY TRIAL

A jury trial is hereby demanded.

DATED: January 15, 2021

Respectfully Submitted
Clifford Forese
By his attorneys,

/s/ Michael Tumposky
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